

MINUTE ITEM

30. (PROPOSED LEGISLATIVE PROGRAM, 1959 - W.O. 2670.2.)

The Executive Officer reported that establishment of interagency procedures with the Department of Finance had eliminated the requirement for amendment of Government Code Section 13110 as proposed in Calendar Item 39 attached. After consideration and

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE EXECUTIVE OFFICER WAS AUTHORIZED TO SUBMIT LEGISLATION FOR CONSIDERATION DURING THE 1959 SESSION OF THE STATE LEGISLATURE, TO PROVIDE AS FOLLOWS:

PUBLIC RESOURCES CODE:

AMEND SECTION 6210.4.

REPEAL SECTION 6210.6.

REPEAL SECTION 6214.

AMEND SECTION 6505.5 AND SECTION 6509.

AMEND SECTION 6826.

REPEAL CHAPTER 4, PART 2, DIVISION 6, CONSISTING OF SECTIONS 6961, 6962, 6963, 6964, 6966, AND 6970 TO 6978 INCLUSIVE.
AMEND SECTION 6991. ADD SECTION 6996.

REPEAL SECTIONS 7701, 7702, 7703, 7704, 7720, 7721, AND 7722.
AND AMEND SECTION 7705.

REPEAL SECTIONS 7726, 7727, AND 7728, AND AMEND SECTION 7729.

REPEAL ARTICLE 3 (COMMENCING AT SECTION 7751), ARTICLE 4 (COMMENCING AT SECTION 7771), AND ARTICLE 5 (COMMENCING AT SECTION 7901) OF CHAPTER 4, PART 3, DIVISION 6, AND SECTION 7994.

THE FORM OF LEGISLATION IS TO BE DRAFTED BY THE OFFICE OF THE LEGISLATIVE COUNSEL, AND THE SPECIFIC ACTIONS ARE TO BE PROCESSED ONLY PURSUANT TO AN OPINION OF THE OFFICE OF THE ATTORNEY GENERAL AS TO CONCURRENCE ON THE OBSOLETE STATUS OF THE STATUTES PROPOSED TO BE REPEALED AND THAT NO VESTED RIGHTS WILL BE DISTURBED BY THE PROPOSED STATUTORY MODIFICATIONS.

Attachment

Calendar Item 39 (6 pages)

CALENDAR ITEM

MISCELLANEOUS

39.

(PROPOSED LEGISLATIVE PROGRAM, 1959 - W.O. 2670.2.)

On December 11, 1958 (Minute Item 14, pages 4378-4382), the Executive Officer was authorized to draft and submit legislation for consideration during the 1959 session of the State Legislature, to accomplish the elimination of certain obsolete statutes and to simplify current administrative practices without affecting any vested rights.

The specific form of legislation has been drafted by the office of the Legislative Counsel, and the opinion of the office of the Attorney General has been requested as to concurrence on the obsolete status of the statutes proposed to be repealed and that no vested rights will be disturbed by the proposed statutory modifications.

Amendment or repeal of the following listed sections of the Public Resources Code and of the Government Code is suggested. The Legislative Counsel and staff comments on the results that would be accomplished by the proposed modifications are included.

Public Resources Code

Section 6210.4a

Action: Amend.

Legislative Counsel's Digest: Requires all conveyances by the State of the 16th and 36th sections, or lands acquired in lieu thereof, or of swamp and overflowed lands to be subject to any existing easements, as well as rights of way, issued by the State prior to the time of the conveyance, rather than requiring the reservation of such rights to the State in the conveyance.

Staff Summary: The elimination of unnecessary administrative procedures, as well as of possible future title encumbrances, appears desirable so that future conveyances of State lands may be made subject to existing easements and rights of way issued by the State prior to the time of conveyance. The proposed change would permit the transfer of the entire fee title, rather than require the State to retain title to the area of a right of way or easement previously granted.

Section 6210.6

Action: Repeal.

Legislative Counsel's Digest: Deletes provision concerning the grant of a right of way over public lands for highway purposes to any corporation, company, or individual who has laid out and constructed a road or highway over such lands.

MISCELLANEOUS 39. (CONTD.)

Public Resources Code (continued)

Section 6210.6 (continued)

Staff Summary: This section is a carry-over from an original enactment of 1866, and is not in use. The section has no provision for notification to the State of any area to be claimed, which appears to be contrary to the obvious legislative intent that all public lands, with certain stated exceptions, be under the management of the State Lands Commission.

Section 6214

Action: Repeal.

Legislative Counsel's Digest: Deletes specified fees payable to the State Lands Commission for services performed by it in respect to certificates of purchase, patents or certified copies of the record thereof, the certification of contested cases to the Superior Court, copies and certifications of papers, copies of maps, and such other fees as are allowed by law.

Staff Summary: The charges specified in this section, based on former Political Code Section 501 amended in 1907, are unrealistic under present-day costs. Charges for services performed by the Commission, not exceeding actual cost to the State of such services, are authorized under Section 6218.

Section 6505.5 and Section 6509

Action: Amend.

Legislative Counsel's Digest: Provides for the termination of such a lease (grazing or recreational) on the date that the State Lands Commission approves the sale of the land, instead of for termination generally on the sale of the land. Eliminates a provision to the effect that the date of termination shall be the date on which the certificate of purchase or patent is issued.

Provides for an amendment of such a lease with respect to the portion not approved for sale in the event of a sale of a portion of the leased land.

Changes the scope of provisions now relating to the surrender of a lease of land in specified situations.

Eliminates a provision, applicable to leases generally, for the surrender of an existing lease and the execution of a new one where a portion of the land is sold.

Provides that where a lease has been amended because of the sale of a portion of the land covered by it, the Commission shall credit the lessee with prepaid rental for the remaining term, or issue a certificate showing the amount of such rental that is refundable.

MISCELLANEOUS 39. (CONTD.)

Public Resources Code (continued)

Section 6505.5 and Section 6509 (continued)

Staff Summary:

Section 6505.5. Elimination of the requirement for the termination of an entire lease, where only a portion of the area contained within the lease is approved for sale, is desirable. The preferable procedure appears to be issuance of a lease amendment containing only the remaining area left after a sale.

Section 6509. Amendment required to delete the provisions which would conflict with the proposed amendment to Section 6505.5 above. Specifically, this section should no longer contain the provision relating to the termination of a lease by reason of the filing of an application to purchase.

Section 6826

Action: Amend.

Legislative Counsel's Digest: Specifically prohibits issuance of a prospecting permit for oil and gas deposits reserved to the State.

Staff Summary: An amendment is required to correct the omission of the first sentence of this section at the time of prior amendment in 1957.

Chapter 4, Part 2, Division 6, commencing at Section 6961.

Section 6991

Section 6996

Action: Repeal Chapter 4, Part 2, Division 6, consisting of Sections 6961, 6962, 6963, 6964, 6966, and 6970 to 6978 inclusive. Amend Section 6991. Add Section 6996.

Legislative Counsel's Digest: Deletes the provisions authorizing certain leases for the extraction of minerals from State-owned streams and lakes.

Staff Summary: All leases provided for under Chapter 4, Part 2, Division 6, have terminated heretofore, and under Section 6963 no new applications could be received pursuant to this Chapter after 1941. Leases for the extraction of minerals from certain waters and lands will continue to be authorized by Chapter 4.1. The criteria of Section 6962 are to be added as Section 6996, and the former reference to Section 6962 in Section 6991 is to be amended to refer to the new Section 6996.

MISCELLANEOUS 39. (CONTD.)

Public Resources Code (continued)

Sections 7701, 7702, 7703, 7704, 7705, 7720, 7721, and 7722

Action: Repeal Sections 7701, 7702, 7703, 7704, 7720, 7721, 7722.
Amend Section 7705.

Legislative Counsel's Digest: Repeals provisions regarding applications for the purchase of State lands, other than for cash, and regarding hearings by the State Lands Commission on such applications, the expiration of certain unapproved applications, the filing of a copy of a survey on location, and the issuance of certificates of purchase.

Staff Summary: The cited sections specify provisions relating to partial or time-payment purchase of land from the State, which procedure is obsolete.

Sections 7726, 7727, 7728, and 7729

Action: Repeal Sections 7726, 7727, and 7729. Amend Section 7729.

Legislative Counsel's Digest: Deletes provisions concerning the issuance of a duplicate certificate of purchase of State lands to the owner of a certificate of purchase that has been lost, destroyed, or placed beyond his control.

Permits the issuance of a patent upon the submission of an affidavit of a person having an interest in such lands that the certificate of purchase is lost, destroyed, or beyond the control of the owner of the land, in addition to the surrender of a fully paid certificate of purchase. Eliminates provisions regarding the issuance of a patent in the case of a certificate of purchase that has been lost, destroyed, or placed beyond the control of the purchaser.

Staff Summary: It has been the administrative practice of the Commission to issue a patent in the name of the original patentee through whom a successor in interest will claim and perfect title. Therefore, it is not material to the records of the Commission that a duplicate certificate of purchase or the chain of title claim be furnished.

Article 3 (commencing at Section 7751), Article 4 (commencing at Section 7771), and Article 5 (commencing at Section 7901) of Chapter 4, Part 3, Division 6, and Section 7994

Action: Repeal.

Legislative Counsel's Digest: Deletes provisions concerning payment of delinquent interest and forfeiture and foreclosure of state lands by purchasers who are delinquent in interest payments on purchase certificates. Deletes provision concerning 5 per cent interest rate on outstanding contracts for the sale of school lands.

MISCELLANEOUS 39. (CONTD.)

Public Resources Code (continued)

Article 3 (commencing at Section 7751), Article 4 (commencing at Section 7771), and Article 5 (commencing at Section 7901) of Chapter 4, Part 3, Division 6, and Section 7994 (continued).

Staff Summary: All sections proposed for repeal relate to conditions arising in the event of delinquent payments on sales for which certificates of purchase were issued many years ago. A moratorium on the payments under these procedures was terminated in 1943, and all contract payments then outstanding either were paid or the sale was rescinded for lack of payment.

Government Code

Section 13110

Action: Amend

Legislative Counsel's Digest: Requires that copy of all documents transferring control or possession of real property between state agencies be furnished to the State Lands Commission.

Staff Summary: The present section authorizes interagency transfer of control and possession of State lands (subject to approval by the Director of Finance), but does not require notice of transfer of such lands to be given to the State Lands Commission for indexing as required by P.R.C. Section 6219.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO SUBMIT LEGISLATION FOR CONSIDERATION DURING THE 1959 SESSION OF THE STATE LEGISLATURE TO PROVIDE AS FOLLOWS:

PUBLIC RESOURCES CODE:

AMEND SECTION 6210.4.

REPEAL SECTION 6210.6.

REPEAL SECTION 6214.

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AMEND SECTION 6826.

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AMEND SECTION 6991. ADD SECTION 6996.

REPEAL SECTIONS 7701, 7702, 7703, 7704, 7720, 7721, AND 7722,
AND AMEND SECTION 7705.

MISCELLANEOUS 39. (CONTD.)

PUBLIC RESOURCES CODE (CONTINUED):

REPEAL SECTIONS 7726, 7727, AND 7728, AND AMEND SECTION 7729.

REPEAL ARTICLE 3 (COMMENCING AT SECTION 7751), ARTICLE 4 (COMMENCING AT SECTION 7771), AND ARTICLE 5 (COMMENCING AT SECTION 7901) OF CHAPTER 4, PART 3, DIVISION 6, AND SECTION 7994.

GOVERNMENT CODE:

AMEND SECTION 13110.

THE FORM OF LEGISLATION IS TO BE DRAFTED BY THE OFFICE OF THE LEGISLATIVE COUNSEL, AND THE SPECIFIC ACTIONS ARE TO BE PROCESSED ONLY PURSUANT TO AN OPINION OF THE OFFICE OF THE ATTORNEY GENERAL AS TO CONCURRENCE ON THE OBSOLETE STATUS OF THE STATUTES PROPOSED TO BE REPEALED AND THAT NO VESTED RIGHTS WILL BE DISTURBED BY THE PROPOSED STATUTORY MODIFICATIONS.